

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of OregonUnited States of America
v.
Timothy Loren McCoy FlemingCase No. 6:15-mj-67-TLDefendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 30, 2015 in the county of Linn in the
 District of Oregon, the defendant(s) violated:*Code Section**Offense Description*

Title 18, USC Section 875(c)

Interstate communication of a threat to injure the person of another

This criminal complaint is based on these facts:

See attached affidavit which is referenced herein and made a part hereto.

☒ Continued on the attached sheet.
Complainant's signature

Timothy W. Suttles, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

4/21/15

City and state:

Eugene, Oregon
Judge's signature

Thomas M. Coffin, U.S. Magistrate Judge

Printed name and title

STATE OF OREGON)
) ss. AFFIDAVIT OF TIMOTHY W. SUTTLES
County of Lane)

I, Timothy W. Suttles, after having been duly sworn, hereby depose and say that:

Agent Introduction

1. I am employed by the United States Department of Justice as a Special Agent (SA) for the Federal Bureau of Investigation (FBI), and have been employed in this capacity since January, 2001. As a federal Agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States. My responsibilities include the investigation of federal criminal violations.

2. This affidavit is prepared in support of a criminal complaint and an application for an arrest warrant for Timothy Loren McCoy Fleming. This affidavit sets forth probable cause to believe that Fleming violated Title 18 U.S.C., Section 875(c), interstate communication of a threat to injure the person of another.

3. The statements in this affidavit are based in part on my investigation of this matter and on information provided by other law enforcement agents. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to support a criminal complaint and for the arrest of Timothy Loren McCoy Fleming.

Legal Authority

4. Regarding the applicable law, Title 18 U.S.C., Section 875, entitled "Interstate communications," provides, in part, that:

"(c) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

Statement of Probable Cause

5. On January 30, 2015, at approximately 10:45 AM, Bethany Dunn-McCoy contacted the Albany Police Department (APD) to report that her brother, Timothy Fleming, was posting threats to the APD on the social media web site Facebook. Dunn-McCoy told APD Dispatch that Fleming posted that he was at Albany City Hall and he was going to kill an APD officer. He also posted a photo of a gun in his hand.

6. APD officers were dispatched to City Hall which was occupied by employees and members of the public. APD Sergeant Dorn and Officer Michelsen responded to the home of Darla Madera, Fleming's mother.

7. Fleming was not located at Madera's residence. A short time later, APD Officer Clausen contacted an individual matching the description of Fleming near the corner of Baker Street and SE 5th Avenue. The individual identified himself as Thomas Fleming, the brother of Timothy Fleming. The individual was detained and a pellet gun that looked like a real semi-automatic handgun was located on his person. APD Detective Hietala advised Fleming of his Miranda Rights and placed him in handcuffs.

8. Madera walked to the location where Officer Clausen had made contact. Madera confirmed that the individual contacted was Timothy Fleming. Officer Beckwith then transported Fleming to APD. Fleming has remained in the custody of the Linn County Jail for a probation violation.

9. I reviewed the postings Fleming made on Facebook regarding APD. One post states the following, "I do not apologize in advance to the state of Oregon or to the city of Albany for the lives of officers that will atone." Another post states, "Call the police an the FBI. I need more targets anyways, hope they ready to die. ISIS trained mind when my soul I couldn't find,..." A third post reads, "Gotta full clip, sick of this shit, eatin that destroying angel mushroom, don't push it bitch. Stash the salvation in my pocket, safety off, trigger finger cold and willing. Walk into Albany city hall, smile at the uniform as I pass him in the hall, turn round, Salvation speaks, a roaring sound, uniform goes down, no armor on the head make a corrupt cop dead."

10. Fleming signed a Consent to Search form allowing FBI to search his cell phone. I reviewed the images on his cell phone. Among other photos on the phone were photos of Albany City Hall dated January 30, 2015, and photos of a black pistol dated January 30, 2015.

11. On June 24, 2013, Fleming was convicted of Felon in Possession of a Firearm in violation of Oregon Revised Statute 166.270, in Linn County, Oregon. Fleming was sentenced to 13 months in jail.

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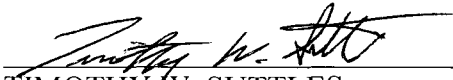
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Conclusion

30. Based upon the above facts, I have probable cause to believe, and do believe, that violations of Title 18 U.S.C., Section 875(c) have been committed by Timothy Loren McCoy Fleming. I have discussed the foregoing information with Assistant United States Attorney William 'Bud' Fitzgerald who advised that, in his opinion, the information as related in this affidavit is legally and factually sufficient to support the requested criminal complaint and arrest warrant.

31. Therefore, I respectfully request that the attached criminal complaint and arrest warrant be issued authorizing the arrest of Timothy Loren McCoy Fleming.


TIMOTHY W. SUTTLES
Special Agent, FBI

SUBSCRIBED AND SWORN to before me this 21 day of April, 2015.


THOMAS M. COFFIN
United States Magistrate Judge